

May 17, 2016

Dear House Education Committee,

Thank you for taking the time to consider the incredibly important issue of school discipline. I am writing to urge you to support HB 5618, HB 5619, and HB 5620. I am also writing to urge you NOT to support HB 5621.

HB 5618 – HB 5620

As an attorney for children and an Equal Justice Works Fellow, I have spent the last two years providing legal services to children at every stage along the school-to-prison pipeline. Focused primarily on Wayne County residents, I advocate for children with unidentified or unmet special education needs, represent children facing suspension or expulsion, and defend children in juvenile court if they are accused of committing a crime. Too often in my work, I see children removed from school for behaviors that could have been reduced using appropriate de-escalation techniques, or for incidents that could have been resolved through restorative practices. Once out of school, those children are pushed into the waiting arms of the juvenile justice system, one of the most significant predictors of high school dropout, adult poverty, and involvement with the adult criminal justice system. This destructive school-to-prison pipeline is disproportionately prevalent within, and particularly devastating for, two of our most vulnerable populations: children of color and children with special needs.

Many people assume that the juvenile justice system will teach children to take responsibility for their actions and to make better choices going forward. In reality, the juvenile justice system teaches children two lessons: 1) it teaches them to avoid taking responsibility unless the prosecution can prove that they are guilty; 2) it teaches them that compliance with adult directives and societal norms is necessary only to the extent that the compliance benefits themselves (gets them off of probation, keeps them out of juvenile jails, allows them to return home from juvenile jails, etc.). Although I firmly believe that a child's constitutional rights can and must be meticulously upheld in legal proceedings, on an abstract level, these are not the lessons we should be teaching our children. We should be teaching them to take responsibility for their actions, to understand the perspective of the people they hurt, and to make amends for the harm they've caused. Those lessons should be taught in school, and children must be kept in school in order to learn them. For these reasons, I urge you to support HB 5618, HB 5619, and HB 5620, all of which would help stem Michigan's school-to-prison pipeline by promoting restoration over criminalization, by choosing teaching rather than punishment.

HB 5621

For many of the reasons described above, I am deeply troubled by HB 5621. Speaking again as an education advocate and juvenile defense attorney, I feel confident in saying that if HB 5621 were to go into effect, the percentage of children pushed into the school-to-prison pipeline would rise dramatically. The number of cases recommended for expulsion due to arson, weapons, criminal sexual assault, or assault on a staff already far exceeds the number of cases that rise to the level of seriousness requiring expulsion. Thanks to Michigan's existing mandatory expulsion law, schools are so hyper-vigilant about anything that looks or smells like the offenses enumerated within that law that the schools automatically move for expulsions, even when they are not required under the law and not warranted by safety concerns.

The following example is illustrative: a 12-year-old client of mine was expelled for lighting a lighter on a school bus and lighting the edge of a piece of notebook paper before blowing it out. No one was hurt, no property was damaged, the child admitted she was wrong and apologized. Initially, the school tried to move for her expulsion pursuant to Michigan's mandatory expulsion law, failing to read the law closely enough to know that the definition of arson under that law requires burning something of significant value, which the notebook paper did not come close to reaching. When I pointed this out to the District, they acknowledged their mistake, but were clearly already set on expelling the child. We were, after all, in the middle of an expulsion hearing. As a result, they decided to continue with the hearing and use their discretion to expel her for "arson," this time using the broader definition outlined in their student handbook. Because of the school's hyper-vigilance about anything that looked or smelled like arson, that child's foster care placement fell apart, she was moved into a locked, residential group home, and has been AWOL from her placement for the last 6 months. This is not the story of an out of control kid who was going to reach this terrible situation eventually. This is the story of a 12-year-old whose life spiraled downwards after she was expelled. I can only imagine how much worse the situation would have been if we had added a criminal record to her troubles.

If school districts are required to not only expel children pursuant to the mandatory expulsion law (which is already the second harshest in the nation), but also report those incidents to the police and prosecutors, the following will happen: a) districts will feel even more pressure to expel children for anything that appears remotely related to that law, even if it does not technically meet the legal definition; b) districts will be more likely to call the police during incidents that could easily be deescalated and resolved at a local level; and c) a greater number of children (again, disproportionately children of color and children with disabilities) will be funneled into the juvenile justice system, drop out of school, face adult criminal charges, and/or live in adult poverty. These are not the results we want for our children. And these are not the results that will make our schools or communities safer. We must stop criminalizing children. We must find a better, more restorative way to help them become productive, positive, life-giving members of our society. Please do not support HB 5621.

Thank you for your time and consideration.

Sincerely,



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Sponsored by the Norflet Progress Fund

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